

IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

DION ROBINSON )  
                  )  
PLAINTIFF,      )  
                  )  
VS.               )      CASE NO.: 1:07 CV 541  
                  )  
DON PARKER      )  
                  )  
DEFENDANT.      )

**ANSWER**

COMES NOW Defendant, Don Parker, and answers the Plaintiff's Complaint as follows.

**INTRODUCTION**

1.     Defendant denies the allegations of paragraph one (numbered one) of Plaintiff's Complaint.

**JURISDICTION**

2.     The Defendant admits the Court has subject matter jurisdiction over this action. All other allegations are denied.

3.     The Defendant admits venue for this action is proper in the United States District Court for the Middle District of Alabama, Southern Division. All other allegations are denied.

**STATEMENT OF ALLEGATIONS**

4.     Defendant denies the allegations of paragraph four (numbered 4) of Plaintiff's Complaint.

5. Defendant denies the allegations of paragraph five (numbered 5) of Plaintiff's Complaint.

6. Defendant denies the allegations of paragraph six (numbered 6) of Plaintiff's Complaint.

**CLAIMS FOR RELIEF**

7. Defendant denies the allegations of paragraph seven (numbered 7) of Plaintiff's Complaint.

**FIRST DEFENSE**

To the extent the Plaintiff failed to mitigate his alleged damages, if any, the Defendant is entitled to an offset for any amount he earned or could have earned.

**SECOND DEFENSE**

The Defendant acted with just cause at all times.

**THIRD DEFENSE**

The Defendant acted reasonably at all times.

**FOURTH DEFENSE**

The Defendant pleads qualified immunity as a defense.

**FIFTH DEFENSE**

The Defendant pleads immunity as a defense.

**SIXTH DEFENSE**

The Defendant pleads it had a legitimate, non-discriminatory reason for its actions.

**SEVENTH DEFENSE**

The Defendant pleads judicial estoppel as a defense.

**EIGHTH DEFENSE**

The Defendant pleads collateral estoppel as a defense.

**NINTH DEFENSE**

The Defendant pleads equitable estoppel as a defense.

**TENTH DEFENSE**

The Defendant pleads estoppel as a defense.

**ELEVENTH DEFENSE**

The Defendant pleads fraud as a defense.

**TWELFTH DEFENSE**

The Defendant pleads good faith.

**THIRTEENTH DEFENSE**

The Defendant pleads the defense of waiver.

**FOURTEENTH DEFENSE**

The Defendant pleads that the Plaintiff failed to exhaust all administrative remedies.

**FIFTEENTH DEFENSE**

The Defendant pleads that Plaintiff was afforded the opportunity for a termination hearing before the City Council, who is the final decision maker, but instead chose to resign.

**SIXTEENTH DEFENSE**

The Plaintiff's damages claim is limited by misconduct that independently would have resulted in his termination. See McKennon v. Nashville Banner Publ'g Co., 513 U.S. 352 (1995).

**NOTICE OF INTENTION TO PURSUE ATTORNEYS' FEES**

Defendant asserts that this action is groundless, frivolous, unreasonable, and/or without foundation and brought in bad faith. Defendant intends to pursue attorney's fees against the Plaintiff.

Dated this the 2<sup>nd</sup> day of November, 2007.

/s/ Steadman S. Shealy, Jr.

Steadman S. Shealy, Jr. (SHE023)  
ASB 2193-Y88S  
Attorney for Defendant:  
Don Parker

OF COUNSEL:  
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CERTIFICATE OF SERVICE

I hereby certify that I have this day mailed a copy of the foregoing, properly addressed and postage prepaid, to:

Malcolm R. Newman  
P.O. Box 6137  
Dothan, Alabama 36302

This the 2<sup>nd</sup> day of November, 2007.

/s/ Steadman S. Shealy, Jr.